

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES

V.  
MATT A. HAVEY

CRIMINAL NO. 04 10231 MLW 3

**DEFENDANT'S MOTION IN LIMINE - "SOFT EXPERTS"**

---

The defendant suggests that it is the usual practice of the Government in drug cases such as this to utilize Government Agents to testify as "soft experts" concerning the *modus operandi* of drug traffickers.

The defendant suggests that in the case of *Kumho Tire Co. v. Carmichael*, 526 U.S. 137, 119 S. Ct. 1167 (1999), the United States Supreme Court ruled that the criteria of *Daubert* (*Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579 [1993]) apply to non-scientific, or, to "soft-expert testimony" as well as scientific evidence.

*Because it is usually impossible to verify empirically the findings the Governments Agents testifying as soft experts and thus in most cases impossible to cross examine effectively because there is a complete dearth of empirical data, the "soft expert" can say whatever he or she wishes.*

See *United States v. Hines*, 55 F. Supp. 2062 (D. Mass. 1999). (Handwriting "experts").

*Further, the defendant moves for pretrial hearing on the Daubert issues, wherein the soft expert should be required elucidate his or her methodology and experience, subject to cross examination.*

/s/Roger Witkin

Roger Witkin

6 Beacon Street, Suite 1010

Boston, MA 02108

Tel. 617 523 0027

Fax 617 523 2024

BBO No. 531780

**DATE: March 13, 2006**

F93

1049

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

UNITED STATES

V.  
MATT A. HAVEY

CRIMINAL NO. 04 10231 MLW 3

CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of the within document was served upon the attorney of record for the United States, AUSA Victor A. Wild by mail which was e-filed this day.

/s/Roger Witkin

Roger Witkin  
6 Beacon Street, Suite 1010  
Boston, MA 02108  
Tel. 617 523 0027  
Fax 617 523 2024  
BBO No. 531780

DATE: March 13, 2006

